

REMARKS

I. Initial Comments

Applicants thank Examiner Willse for the courtesies extended to Applicants' representatives during the telephonic interview conducted on May 22, 2006. During this interview, Applicants' representative explained Applicants' intention to file the above amendment, as well as the reasons Applicants believe the above amendment places all claims now pending in the present application in condition for allowance. Applicants explained that the substance of the above amendments insert into independent claims 29, 43, 53, 61 and 63 limitations from those claims indicated as allowable by Examiner Hill in the Final Office Action at page 4. With respect to new claims 78-82, Applicants' representative explained that these claims recite the presence of at least one quaternary element, which Applicants believe renders these claims allowable over the prior art in view of Examiner Hill's indication in the Final Office Action that claims 76 and 77 contain allowable subject matter. The Examiner advised Applicants' representatives that he would take the amendment under consideration upon the filing of the after-final amendment, and that Applicants could expect a reply within one-month from the date of filing. Applicants appreciate the Examiner's prompt attention to this application.

II. Status and Disposition of the Claims

a. Status of the claims

Before this amendment, claims 29-77 were pending. By this amendment:

a) claims 41 and 65-68 are cancelled without prejudice or disclaimer; b) claims 29, 32-35, 43, 45, 46, 48-53, 55, and 57-64 are amended; and c) claims 78-82 are new. Thus,

upon entry of the above amendment, claims 29-40, 42-64, and 69-82 are pending and under consideration on the merits.

Claims 29, 43, 53, 61 and 63 have been amended herein to address the objections raised by the Examiner in the Final Office Action, and to insert the limitations of previous claims 41, 65, 66, 67, and 68, respectively. Specifically, claims 29, 43, 53, 61, and 63 have been amended herein to state the full names of the elements and alloys recited. Further, these claims have been amended to recite a body formed from struts, "wherein said struts have a thickness ranging from about 0.002 inches to about 0.006 inches." As this limitation was recited in previous claims 65-68, Applicants submit that this amendment raises no issue of new matter.

Claims 32-35, 45, 46, 48-53, 55 and 57-64 have been amended herein to address the objections raised by the Examiner in the Final Office Action. Specifically, these claims have been amended to state the full names of the elements and alloys recited. Applicants submit that these amendments raise no issue of new matter.

Regarding new claims 78-82, Applicants submit that none of these new claims present any issue of new matter as they merely re-present originally claimed subject matter in independent form. Specifically, claim 78 re-writes previous claim 76 in independent form. Claims 79, and 80 depend from claim 78. Claim 81 re-writes previous claim 77 in independent form. Claim 82 depends from claim 81. Support for these new claims may be found in the specification and claims as originally filed, for example, at paragraphs [00055], [00060], [00076], and [00078]-[00084] of the

specification as filed. Accordingly, Applicants respectfully request entry of these new claims as they raise no issue of new matter.

b. Disposition of the claims

Claims 29-77 stand objected to by the Examiner for various informalities. Office Action, page 2. Claims 29, 30, 36-39, 42-46, 53-55, and 69-75 stand rejected under 35 U.S.C. §102(e) as anticipated by U.S. Patent No. 6,582,461 ("Burmeister"). *Id.* at 2, 3. Further, claims 29-40, 42-64, and 69-72 stand rejected under 35 U.S.C. §102(e) as anticipated by U.S. Patent No. 6,572,646 ("Boylan"). *Id.* at 3, 4. Finally, claims 41, 65-68, 76, and 77 stand objected to as being dependant upon a rejected base claim. *Id.* at 4. Applicants respectfully disagree with and traverse each of these objections and rejections in view of the foregoing amendments and the following arguments.

III. Arguments

a. The Objections to Claims 29-77 Are Moot

Claims 29-77 stand objected to by the Examiner for various informalities. *Id.* at 2. For example, the Examiner objects to the use of the abbreviation, "NiTi," in the claims instead of "nickel-titanium." *Id.* By the above amendments, Applicants have amended the claims to replace all the abbreviations for the recited elements and alloys with the corresponding full designation. Furthermore, new claims 78-82 do not contain any of the abbreviations objected to by the Examiner in the Final Office Action. Thus, Applicants submit that the above amendments render the Examiner's objection to claims 29-77 moot, and respectfully request that this rejection be withdrawn.

b. The §102(e) Rejections in view of Burmeister and/or Boylan Are Moot

Applicants respectfully submit that the above amendments render the outstanding 35 U.S.C. §102(e) rejections in view of Burmeister and/or Boylan moot. In the Final Office Action, the Examiner indicated that claims 41, 65-68, and 76-77 would be allowable if re-written in independent form. Office Action at 4. By the above amendments, Applicants have amended claims 29, 43, 53, 61 and 63 to insert the limitations of previous claims 41, 65, 66, 67, and 68, respectively. Specifically, by the above amendments, claims 29, 43, 53, 61 and 63 recite a body formed from struts, “wherein said struts have a thickness ranging from about 0.002 inches to about 0.006 inches.” In other words, the above amendment inserts the subject matter indicated as allowable by the Examiner in the Final Office Action into independent claims 29, 43, 53, 61, and 63.

Thus, Applicants submit that these previously rejected claims are now allowable over Burmeister and Boylan. Furthermore, as claims 30-40, 42, 44-52, 54-60, 62, 64, and 69-77 depend from one of claims 29, 43, 53, 61, and 63, Applicants respectfully submit that these claims are also allowable over Boylan and Burmeister. Accordingly, Applicants respectfully submit that the outstanding rejections in view of Burmeister or Boylan are now improper, and should be withdrawn.

c. New Claims 78-82 Are Allowable Over the Prior Art of Record

By the above amendment, new claims 78-92 have been added. Claims 78 and 81 merely re-write previous claims 76 and 77 in independent form. As the Examiner in

the Final Office Action indicated that previous claims 76 and 77 are allowable over the applied prior art, Applicants respectfully submit that new claims 78 and 81 are likewise allowable. With respect to claims 79, 80, and 82, Applicants submit that these claims are also allowable by virtue of their dependence from allowable claim 78 or 81.

IV. Conclusion

Applicants respectfully request that this Amendment under 37 C.F.R. § 1.116 be entered by the Examiner, placing claims 29-40, 42-64, and 69-82 in condition for allowance. Applicants submit that the above proposed amendments do not raise any new issues or necessitate the undertaking of any additional search of the art by the Examiner, since all of the elements and their relationships now claimed were either earlier claimed or inherent in the claims as examined. Therefore, this Amendment should allow for immediate action by the Examiner.

Finally, Applicants submit that entry of the above amendment would place the application in better form for appeal, should the Examiner continue to dispute the patentability of the pending claims.

In view of the foregoing remarks, Applicants submit that the presently claimed invention, as amended, is neither anticipated nor rendered obvious in view of the prior art references cited against this application. Applicants therefore request the entry of this Amendment, the Examiner's reconsideration and reexamination of the application, and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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